STAT Sanitized Copy Approved for Release 2010/07/16 : CIA-RDP91-00587R000201060005-0

ARTICLE APPEARED ON PAGE A1

NEW YORK TIMES
12 December 1986

ORDER TO BYPASS CONGRESS ON IRAN CALLED C.I.A. IDEA

STAT

STAT

By STEPHEN ENGELBERG
Special to The New York Times

WASHINGTON, Dec. 11 — Government officials said today that the Central Intelligence Agency originally proposed the idea of keeping the Iran arms sale secret from Congress. They said the agency took the unusual step in the first draft of what became a Presidential order guiding the program.

The decision not to tell Congress was a crucial step in the Iran affair, according to Administration officials, because it meant that the entire operation had to be run outside normal channels.

The issue of what one official termed an "off the books" covert action has become significant because the Defense Department and the State Department were largely kept in the dark about the program, and even C.I.A. officials have testified to Congress that they knew little about the details.

STAT

C.I.A. Contingency Fund

One result of keeping the matter from Congress was that the agency's multimillion-dollar contingency fund could not be used to underwrite the arms. The C.I.A. is barred by law from spending any money not appropriated by Congress.

The Iran arms sales were financed by Adnan M. Khashoggi, a Saudi arms dealer, who in turn raised money from a network of private investors in Canada and the Cayman Islands, according to testimony in Congress by C.I.A. officials.

William J. Casey, the Director of Central Intelligence, also said today that he became suspicious last October that money from the Iran arms sales may have been diverted to Nicaraguan rebels after a conversation with Roy Furmark, an oilman and former business associate who was a marginal participant in the deal.

Testimony to House Panel

In testimony Wednesday before the House Foreign Affairs Committee, Mr. Casey said he had been ordered by President Reagan not to tell the Congressional intelligence committees or leaders about the plan to sell arms to Iran, House members said.

STAT

That statement is accurate but incomplete, according to current and former Government officials familiar with the drafting of the Presidential order of last Jan. 17.

These officials said the first draft of order, or finding, was written by nley Sporkin, then the C.I.A.'s general counsel and now a Federal judge.

It specified that Congress not be told about the arms shipments. A second draft, rewritten by White House officials, did call for notification of Congress, officials said. The final draft, sent to the President for his decision, was also written by Mr. Sporkin, and it combined the two versions, giving the President several options.

With the support of C.I.A. officials, according to officials familiar with the preparation of the finding, Mr. Reagan chose to keep the operation secret from Congress.

The deliberations over the finding were restricted to a handful of people, Administration officials said. One intelligence source, for example, said there were indications that the C.I.A.'s No. 2 official at the time, John N. McMahon, believed that the agency had opposed from the beginning the idea of not notifying Congress.

The finding's order that Congress be bypassed is likely to have a profound effect on future relations between Capitol Hill and the agency. The two intelligence panels, formed in the aftermath of the C.I.A. abuses of the 1970's, are likely to become much more aggressive in their oversight of the intelligence agencies, according to several lawmakers.

"The relationship that we thought existed does not exist," a Congressional aide said. "We thought we had gotten past the point of having to ask exactly the right question to get the right answer. We haven't. The real lasting damage from this thing will be what it does to the oversight process."

The Presidential finding attributes the failure to notify Congress to the "extreme sensitivity" and "security risks." Administration officials have said it was believed that such an operation could not be told to the Congressional committees and some staff members without the risk of disclosures to the public.

they were carrying missile parts, not drilling equipment, Mr. Casey told the committee. It is unclear whether anyone then warned the agency. In any event, the flight went ahead, and the agency was told within days by Southern that it had been used to ferry weapons to Iran.

Asked by the committee whether Colonel North had lied to the C.I.A., Mr. Casey was said to have replied, "Maybe he made a mistake."

Under the law, the President has three options with a covert program. He can tell both Congressional committees. In rare instances, he can brief eight legislators: the chairmen and ranking members of the intelligence committees and the leaders of the House and the Senate. The law also mentions the possibility of not telling Congress, but says the President must then disclose the operation in a "timely fashion."

Mr. Sporkin was said by a former Administration official to have cited the preamble to the intelligence oversight act, which says notification is required as long as it is consistent with the President's constitutional powers, such as the prerogative to conduct foreign policy. Mr. Sporkin, this official said, viewed that language as a "loophole" put in by Congress to allow certain sensitive operations without notification.

Several members of the Senate Intelligence Committee, including William S. Cohen, Republican of Maine, have said the panel will be looking at "tightening" the law on notifying Congress.

Some legislators have speculated that the operation was kept from them because it would have faced universal opposition. The President is not required to gain Congressional approval for covert activity, but has dropped or modified programs that are opposed by Congress.

Money for Nicaraguan Rebels

Another explanation being examined by some in Congress is that the Iran arms program could have been intended from its inception to funnel money to the Nicaraguan rebels or other causes, and thus was kept from Congress.

Senator Patrick J. Leahy of Vermont, the vice chairman of the Senate Intelligence Committee, has repeatedly assailed the Administration for refusing to tell Congress about a program that was being shared with "our new friends in Teheran."

Continued

Sanitized Copy Approved for Release 2010/07/16 : CIA-RDP91-00587R000201060005-0

Sanitized Copy Approved for Release 2010/07/16 : CIA-RDP91-00587R000201060005-0

Robert C. McFarlane, the national security adviser until Dec. 4, 1985, said in a speech today, "The deliberate planning for engaging the Congress was part of the concept from its first moments until I left government, and I believe that is an important part of any policy proposal if you intend to sustain it."

A House member who has studied the classified testimony on the Iran program said today that he believed "the normal authorities of the C.I.A. were transferred to the National Security Council." He added, "The N.S.C. ran the operation, which allowed C.I.A., State and Defense to stay within the restraints of the law."

The C.I.A.'s decision to seek a Presidential finding arose in late 1985, after the agency became involved in assisting Israeli shipping of weapons to Iran.

Role of Colonel North

Lieut. Col. Oliver L. North, the White House aide who was dismissed last month, asked the agency to help ship oil-drilling parts to Iran, Mr. Casey told the committee. The request, according to Government officials, was approved by a mid-level employee.

Colonel North was told to call Southern Air Transport, the Miami-based concern that was once a C.I.A. proprietary and has figured prominently in the private network to aid the Nicaraguan rebels, House members said. Southern said it had a plane in Europe and was able to arrange the flight.

When the equipment was loaded onto the plane, the handlers noticed that

Sanitized Copy Approved for Release 2010/07/16 : CIA-RDP91-00587R000201060005-0